

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNIVERSAL CITY STUDIOS, INC., :
Plaintiff, :
- against - : 82 Civ. 4259
NINTENDO CO., LTD. and :
NINTENDO OF AMERICA, INC. :
Defendants. : DEPOSITION
-----x

DEPOSITION UPON ORAL EXAMINATION
OF S H I N I C H I T O D O R I
TAKEN AT NINTENDO CO., LTD., KYOTO,
JAPAN, ON JANUARY 12TH, 1983,
COMMENCING AT 12:45 A.M. AND
ENDING AT 4:00 P.M., THEREOF.

1 up...

2 MR. FAIRHURST: No, there is no purpose, John. The answer
3 I am going to come to that....

4 MR. KIRBY: Okay, you do. I just want to make sure
5 you remember you did have such a list and I have
6 advised you that he typed that list personally.

7 MR. FAIRHURST: I haven't forgotten it. All right. We
8 wouldn't be off on this merry tangent if the witness
9 didn't ask me what I mean by suggestions. That's what
10 we are on now. A merry tangent. I am trying to help
11 the witness, John, not hurt him. He asked what I
12 meant by suggestions. That's what it says there.
13 The word 'suggestion' appears there.

14 MR. KIRBY: You remember that I gave you the list.

15 MR. FAIRHURST: I haven't forgotten it.

16 MR. KIRBY: I simply encourage you the answer I could...

17 MR. FAIRHURST: I have a list. If we go over, I have a
18 lots of lists. But in any event the answer to your
19 question is, "Yes, I have a list."

20 THE WITNESS: Is it all right?

21 MR. FAIRHURST: To be honest with you, I can't remember
22 the question that is before the witness. Would
23 you read back the last question?

(The reporter read back the question.)

24 A. I counted and I find 20 names here. And a half
25

1 of them were devised by myself. And I put up
2 in a list.

3 Q. Okay. The other half, have you seen before today?

4 A. No, I haven't.

5 Q. Now, I don't want to quibble over the word 'devise',
6 but irrespective of when the name was selected
7 and how it was selected, is it fair to say that
8 when you entered the picture, when names were put
9 before you, one name had already existed, was the
10 name KONG?

11 MR. KIRBY: There seems to be some trouble with
12 translation. Is that correct or are you comfortable
13 with the translation of Mr. Fairhurst's question?

14 MR. FAIRHURST: I withdraw the question and put a new
15 question and make it easier.

16 Q. You don't take credit, do you, Mr. Todor, for
17 choosing the word KONG as part of the name?

18 THE WITNESS: What do you mean by 'credit'?
19 Could you repeat the question once again?

20 Q. You don't take credit, responsibility, for
21 originating the word KONG as it was presented to
22 you in conjunction with the name? And by the
23 name I mean DONKEY KONG.

24 THE WITNESS: Do you mean the responsibility in selecting
25 the name KONG?

1 MR. FAIRHURST: To answer that question would be
2 meaningless. I will do that again.

3 Q. Did someone submit to you as a proposed name
4 for this machine the word KONG either by itself
5 or in conjunction with other words?

6 THE WITNESS: Do you mean whether someone had
7 suggested me the name KONG to me?

8 MR. FAIRHURST: We are having an awful lot of difficulty
9 over what I would have thought was a pretty simple
10 question. Let me see if I can get at it in another
11 way.

12 MR. KIRBY: Well, one way you can get at it is by
13 saying yes or no to that.

14 MR. FAIRHURST: It's meaningless, because I can go on
15 forever. I am trying to get a short...

16 MR. KIRBY: If he ask "You mean by that did someone
17 suggest the name KONG to me?" and if you say yes,
18 that's what you mean.

19 MR. FAIRHURST: We will try that.

20 MR. KIRBY: Or you can answer the question.

21 MR. FAIRHURST: Fair enough. The answer to that question
22 is yes.

23 MR. KIRBY: So, the question I take it now, Mr. Todorii,
24 and he may ask a number of other questions but one
25 he will ask you is: Did someone suggest to you

1 that the name for the game include the word KONG?

2 A. Yes, someone suggested.

3 Q. And who was that?

4 A. Probably it was Mr. Yokoi.

5 Q. It could have been someone else?

6 A. No.

7 Q. Do your responsibilities as the Export Manager
8 include the devising of names for all video-arcade
9 games sold by NINTENDO for export?

10 A. No, it doesn't.

11 Q. Is there a reason why the naming of this particular
12 game DONKEY KONG was left to you?

13 A. It wasn't left to me.

14 Q. But you had the responsibility in connection with
15 the naming of the game?

16 A. No, I didn't have the responsibility.

17 Q. Who did?

18 A. There is some misunderstanding here. Normally what
19 I do is to propose a list of names which are the
20 candidates for naming the machine.

21 Q. Do you do that with all machines?

22 A. If I am requested.

23 Q. Who made the request of you with respect to DONKEY
24 KONG?

25 A. Mr. Yokoi.

1 A. I don't rembmer exactly. Probably at the end
2 of May 1981, I think.

3 Q. Now, when you prepared this list, did you have
4 before you suggestions for names given by others?

5 A. No.

6 Q. Had you spoken to anyone to get a suggestion,
7 to get names that would be candidates?

8 A. No.

9 Q. These are all names that appear on T-1, that
10 you devised?

11 A. I selected myself.

12 Q. You selected these names, is that correct?

13 A. Yes, and I am talking about the names that are typed.

14 Q. I understand. You selected them from larger body
15 of names though?

16 A. Probably that is right.

17 Q. And what was the source of this larger body of names?

18 A. From my mind.

19 Q. From your mind?

20 A. Yes.

21 Q. But not based on any conversation with anyone
22 in NINTENDO?

23 A. That is right.

24 Q. When Mr. Yokoi asked you to propose a list, did
25 he give you any suggestions for possible names at all?

1 A. He said we might be able to use KONG.

2 Q. Did you have any discussions with Mr. Miyamoto about
3 the name?

4 A. No, not at all.

5 Q. What did Mr. Yokoi say to you when you gave him
6 the list that has been identified as T-1?

7 A. He didn't say anything. He only said thank you.

8 Q. Did you have any discussions with Mr. Yamada
9 with respect to the naming of the game DONKEY KONG?

10 A. No.

11 MR. FAIRHURST: I will show you what has been furnished to me
12 by your counsel previously. And it is a telex
13 which will speak for itself. But just so you
14 people understand what I am referring to, it's
15 a telex dated 5/28/81, and it's from Mr. Yamada
16 to Mr. Komai. And I will ask the reporter to
17 mark that as T-2. (Plaintiff's Exhibit T-2)

18 (The document was so marked.)

19 Q. Now, have you ever seen what I have just put in
20 front of you as T-2 before?

21 A. No, I haven't.

22 Q. This is the first time, just now?

23 A. Yes.

24 Q. Okay. Do you recognize the writing on it?

25 A. I don't know but it says Yamada here, so I assume

1 "People in the United States would be familiar with."

2 (The question now reads:

3 Q. In your preparation of the list of names that is
4 recited on Exhibit T-1, or the process in which
5 that list was proposed, was it important at all
6 to you that the name chosen for the game be one
7 that people in the United States would be familiar
8 with?)

9 A. It wasn't important.

10 Q. Was it important to you when devising a name
11 for this game, Mr. Todor, that whatever the name
12 eventually would be given, it be one that you
13 believed people in the U.S. would find appealing
14 for whatever reasons?

15 A. I didn't think it was definitely important but
16 it was better that Americans--I forgot your question
17 but let me put it this way. I am trying to make
18 effort to name the game so that the people both
19 in Japan and in the United States can understand
20 easily.

21 Q. The name that they could understand?

22 A. As much as possible. In addition to that, not only
23 for Japanese and American people but also for
24 European people.

25 Q. The name must be one that Europeans, Americans, and

1 Japanese all understand. Is that your testimony?

2 A. Yes, that is right.

3 Q. Is that the principle or the most important consider-
4 ation from your point of view in naming a video-
5 arcade game?

6 A. No, it is not.

7 Q. It is simply one consideration?

8 THE WITNESS: Could you repeat the question again?

9 Q. It is simply one consideration?

10 THE WITNESS: In naming the game?

11 MR. FAIRHURST: Yes. If the witness has a problem in
12 understanding my question, I will repeat it.

13 THE WITNESS: Could you repeat the previous question
14 to that?

15 MR. FAIRHURST: Let me do it this way.

16 Q. You testified that it is important that the
17 name be one that Europeans, Japanese and Americans
18 understand. Is that correct?

19 A. I didn't say it is important. I think, I meant
20 that people in Europe, in Japan, or in the United
21 States, can understand the content of the game by
22 hearing the name of the game, that is better.

23 Q. But this was a factor, by which I mean a consideration
24 on your part, in looking over names and choosing
25 one of them. Is that correct?

1 A. Yes, it is.

2 Q. Are there other factors and considerations involved
3 in the choosing of the name?

4 THE WITNESS: Could you tell me the examples, the
5 specific examples?

6 MR. FAIRHURST: No, I am asking the question.

7 Q. Are there other factors that you consider important
8 in choosing a name?

9 A. Easy to pronounce.

10 Q. Any others?

11 A. That is all. We are not naming under so serious
12 consideration.

13 Q. In your opinion or judgement, what does the name
14 DONKEY KONG tell a person about the content of
15 the game?

16 THE WITNESS: Wasn't your question whether DONKEY KONG
17 is a name that conveys the correct meaning of the
18 contents of the game?

19 MR. FAIRHURST: Yes.

20 THE WITNESS: Is that the meaning of your question?

21 MR. FAIRHURST: Yes.

22 THE WITNESS: So, your question is whether DONKEY KONG
23 expresses the contents of the game favorably?

24 MR. FAIRHURST: Not favorably. Whether it expresses the
25 content of the game in your judgement to Europeans,

Japanese, and Americans alike.

A. yes, it does in my understanding.

Q. In your understanding, what is it about the game that the word DONKEY KONG expresses to Europeans, to Japanese, and to Americans alike?

A. It expresses that a stupid gorilla takes the leading role in the game.

Q. You do not give your video-arcade games Japanese names, do you?

A. No, I don't.

Q. Is there a reason why you do not?

A. Yes, there is.

Q. Would you tell us what that reason is?

A. The reasons are based upon my assumption. After the World War II, after Japan was defeated, Japanese people liked to have English names rather than Japanese names for any kind of merchandise. I don't know why the reason is. Probably it is because English names sound good or smart or modern to Japanese people.

Q. Did you know when you were in the process of naming DONKEY KONG that KING KONG was a famous name of a motion picture in the United States?

A. I heard that such a movie or a motion picture existed. But I didn't know whether that motion picture was famous or not.

1 A. Subconsciously I may have known.

2 Q. Did you know on the same level whether it was
3 in your mind then or not what the basic story
4 of the movie KING KONG was, putting aside the
5 fact that you have testified you have not seen
6 that movie?

7 A. I did not know the story.

8 Q. Do you know the story today?

9 A. No, I know very little about the story.

10 Q. What do you know?

11 A. All I know is a big fierce monkey becoming very
12 violent.

13 Q. Going back to several answers you gave to some
14 earlier questions, about the name conveying the
15 notion of a stupid gorilla to Europeans, to Japanese,
16 and to Americans, what portion of the name denotes
17 the gorilla in your judgement to Americans, Europeans,
18 and the Japanese?

19 A. KONG.

20 Q. What is your understanding of what the word 'DONKEY'
21 means to an American?

22 A. Stupid, goofy.

23 Q. Do you also understand that it refers to a four-
24 legged animal bearing a resemblance mildly to a
25 horse or a mule?

1 question. Where did you start in this journey?

2 Let me put it that way.

3 THE WITNESS: You are asking the process how I came
4 across this word?

5 MR. FAIRHURST: Yes, that's indeed what I am asking.

6 A. First of all, I tried to search for a word which
7 had such a feeling or meaning in my mind, that is
8 to say out of my vocabulary.

9 Q. Referring to the second page of the Exhibit....

10 MR. KIRBY: Excuse me, I thought you asked him to des-
11 cribe the process. Did you just want him to describe
12 the first step of the process?

13 MR. FAIRHURST: Oh, no, I am sorry. That's what I said.
14 I didn't mean to interrupt him. There was a pause
15 there and I didn't know he was going to continue.
16 If you are going to continue, please do so.

17 THE WITNESS: Yes, I am.

18 A. But I didn't think of a good word in English.
19 Therefore, I tried to search an English word for
20 the Japanese terminology tomma.

21 Q. Okay, next?

22 A. As a result the word DONKEY came up.

23 Q. So, you could have called it TOMMA KONG or DONKEY KONG?

24 A. Yes, I could have.

25 Q. But you opted for DONKEY on the notion that that had,

1 if you are familiar with the word, greater
2 universality than tomma?

3 A. Yes, that is correct.

4 Q. Did you try to collaborate, by which I mean to
5 check, with an American whether the word DONKEY
6 had that meaning to Americans?

7 A. No.

8 Q. Did you discuss at any time prior to the naming of
9 the game with Mr. Arakawa?

10 A. I don't remember exactly. I may have or I may
11 not have.

12 Q. At some time, however, Mr. Arakawa sent you a
13 telex asking whether the name could be changed.
14 Did he not?

15 A. I put this as one of the candidates, but I didn't
16 talk with anyone during the process of thinking of
17 candidates before the decision of the name was made.

18 Q. Who, to your knowledge, actually made the decision
19 DONKEY KONG?

20 A. I don't know. But I submitted this list to Mr.
21 Yokoi. And I think there was a discussion between
22 Mr. Yokoi and Mr. Yamauchi.

23 Q. Why do you say that?

24 A. Because that is the usual process.

25 Q. In addition to the discussion that you had with

1 anything to Mr. Todoru about what the name of
2 the game might be."

3 A. Yes, he did.

4 Q. And tell us as best you recall what he said to
5 you about the possible name for the game?

6 A. He told me that KONG can be used for the name
7 of the game.

8 Q. Did he say anything to you about the word gorilla?

9 A. I don't remember exactly. But I think he also said
10 that the word gorilla can be usable in the sense
11 that it has a meaning. But he said it doesn't sound
12 well. The word gorilla did not sound good.

13 And he said KONG would be better than gorilla.

14 Q. Now, I have noticed to the extent of my limited
15 Japanese that, in responding to the question, you
16 appear to me to say that Mr. Yokoi had used the
17 word tomma. Did Mr. Yokoi discuss the word tomma
18 with you?

19 A. No, we didn't talk about that. It was more simple.
20 He asked me to use a word which means tomma or
21 logy, dull, or similar nature.

22 Q. Do you recall, other than what you have now testified
23 to in response to my questions, anything else Mr.
24 Yokoi said to you in that conversation?

25 A. Probably he did not say anything aside from that.